

Frequently Asked Questions (FAQs)

Monterey Bay National Marine Sanctuary

Overflight Prohibition

1. Q. When were Monterey Bay National Marine Sanctuary overflight regulations created and by whom? Has a new rule been imposed?

A. The National Oceanic & Atmospheric Administration (NOAA) created regulations in 1992 prohibiting motorized flight below 1000 feet MSL within selected parts of the Monterey Bay National Marine Sanctuary (MBNMS) in order to protect special wildlife habitats from aerial disturbance. NOAA recently took action to clarify the 20-year-old rule and explicitly allow for rebuttal by someone charged with a violation, but the basic prohibition and zones have not been changed or expanded.

2. Q. Do these overflight prohibitions apply to the entire Monterey Bay National Marine Sanctuary?

A. No. The sanctuary overflight prohibitions apply only within four discrete zones within the sanctuary. The zone boundaries have not changed since 1992. For a general map of the four zones, see
[<http://montereybay.noaa.gov/intro/maps/overflight1_lg.jpg>](http://montereybay.noaa.gov/intro/maps/overflight1_lg.jpg).

3. Q. What is the reason for the recent action to revise west coast aeronautical charts regarding national marine sanctuary overflight zones?

A. Overflight prohibition zones established by NOAA in all west coast national marine sanctuaries have not been depicted on past aeronautical charts. Recent regulatory clarifications by NOAA and subsequent charting actions by FAA were designed to provide clear chart notices that low-altitude flight operations within designated sanctuary overflight prohibition zones are presumed to disturb federally protected wildlife species in violation of NOAA natural resource regulations.

4. Q. Where can I get more detailed information about the aeronautical chart changes?

A. Find additional details about chart changes on-line at
[<http://sanctuaries.noaa.gov/flight/welcome.html>](http://sanctuaries.noaa.gov/flight/welcome.html) or contact the MBNMS main office at 831-647-4201.

5. Q. How can NOAA impose overflight prohibitions when the Federal Aviation Administration (FAA) is the only agency that can establish flight rules?

A. NOAA recognizes FAA's authority to regulate airspace and has worked closely with the FAA to craft its regulation in a way that is explicitly linked to NOAA's statutory authority for natural resource protection. NOAA has established a minimum altitude disturbance threshold for federally protected marine mammal and seabird communities within parts of the MBNMS. Flying motorized aircraft below the 1000-foot minimum altitude threshold in certain coastal areas of the sanctuary violates a federal wildlife disturbance prohibition – not an FAA airspace restriction. The FAA, in a recent letter to the Aircraft Operators and Pilots Association (AOPA), stated that it does not view NOAA's current sanctuary overflight prohibitions as airspace regulations nor as an infringement on the FAA's stated authority to regulate airspace.

6. Q. Are there any exceptions to the overflight prohibitions in the MBNMS?

A. Yes. MBNMS overflight prohibitions do not apply to:

- o flights conducted for valid law enforcement purposes,

- flight operations authorized by a valid sanctuary permit/authorization, or
- activities necessary to respond to emergencies threatening life, property, or the environment, such as aerial search and rescue operations.

7. Q. If a pilot reduces altitude below 1000 feet MSL within an MBNMS overflight prohibition zone to remain compliant with VFR requirements, would that be considered a violation by NOAA?

A. When investigating suspected regulatory violations, NOAA can consider mitigating factors, such as weather conditions and flight rules. Such factors are evaluated on a case-by-case basis, in combination with other information unique to an incident. Shifting marine fog conditions are a common occurrence along the Central California coast. Pilots should plan ahead to avoid situations that would require descending into overflight prohibition zones to maintain VFR.

8. Q. Do MBNMS overflight prohibitions conflict with VFR and IFR approach/departure procedures?

A. In establishing the MBNMS overflight prohibition zones in 1992, NOAA made a deliberate effort to avoid interference with normal airport operations, including approaches and departures. NOAA is not aware of any conflicts at this time between current published airport approach/ departure procedures and its MBNMS overflight prohibitions.

9. Q. What does the “rebuttable presumption” phrase mean in the sanctuary overflight regulation?

A. The MBNMS regulations now establish a rebuttable presumption that flying motorized aircraft below 1000 feet MSL within any of the overflight prohibition zones results in the disturbance of marine mammals or seabirds. This means that if a pilot were observed flying below the established altitude within a designated zone, it would be presumed that marine mammals or seabirds had been disturbed and that a violation of sanctuary regulations had been committed. This presumption of disturbance could be overcome by contrary evidence that disturbance did not, in fact, occur (e.g., evidence that no marine mammals or seabirds were present in the area at the time of the low overflight).

10. Q. Does NOAA have evidence that sanctuary overflight prohibitions are necessary?

A. Yes. The administrative records establishing overflight prohibitions describe the need to protect nearshore and offshore resources from unnecessary disturbance, and explain how low-altitude overflights can disrupt various marine mammal and seabird behavior patterns, including breeding and nesting. Low overflights in these areas clearly pose a risk of harmful disturbance to marine mammals and seabirds, including movement and evacuation in response to low overflights where the young (pups, chicks, eggs) are crushed during an evacuation or exposed to predation as a consequence of loss of parental protection. Additional documentation supporting the need for overflight regulations in order to reduce the risk of harmful disturbance to marine mammals and seabirds was submitted during the 2009 public comment period and can be found at <<http://www.regulations.gov>>, Docket No. NOAA-NOS-2009-0237.

11. Q. Are there overflight prohibitions in other national marine sanctuaries along the west coast?

A. Yes. NOAA overflight prohibitions exist in parts of the following additional national marine sanctuaries along the west coast: Olympic Coast National Marine Sanctuary (Washington), Gulf of the Farallones National Marine Sanctuary (California), and Channel Islands National Marine Sanctuary (California). Minimum altitude regulations vary by sanctuary. Consult appropriate aeronautical charts covering each sanctuary for specific altitude limitations.

12. Q. How will NOAA inform pilots about the amended regulations and chart changes?

A. The primary means of informing pilots about sanctuary overflight prohibitions will be the aeronautical charts themselves – a primary source for flight planning information. The revised chart notices include a web address where pilots can obtain more detailed information. In addition, NOAA will continue to collaborate with FAA to educate pilots on the overflight regulations for sanctuaries. Such coordination may include working with local FAA aviation safety program managers to get the word out to pilot associations. Other outreach strategies will include press releases, website information pages, presentations to flight clubs, articles in general aviation magazines, and flyers / posters at local airports.

13. Q. Besides posting the overflight prohibitions on FAA aeronautical charts, what else has NOAA done to date to inform the flying community about sanctuary overflight zone regulations in Central California?

A. The National Marine Sanctuary Program has conducted pro-active pilot outreach efforts along the Central California coast for several years. Some of these activities include:

- Pilot guide – a foldable map-based insert was designed for placement in the “Blue Book” Pilot Guide to California Airports, which includes a list of overflight regulations, maps of overflight prohibition zones and seabird colonies. Over 5,000 of these guides have been sent to airports, pilot associations, flight schools, private businesses, military, law enforcement officers, and media including the Vertical Challenge Helicopter Show, Aeroadventures, flight schools, Sea Ranch Flying Society, Half Moon Bay and San Carlos airports, Santa Cruz Flying Club, several EAA Chapters, Ahart Aviation, California International Airshow, Specialized Helicopters, Watsonville Airport, Watsonville Pilots Association, Novato Airport, Moffett Field Federal Airfield, etc.
- Annual mailing of a letter to pilots –includes a letter alerting pilots to the laws and regulations pertaining to seabird disturbance. Since 2009, over 1,500 letters have been sent to individual pilots.
- Presentations, to pilot clubs, associations and events. Since 2003 over 25 presentations have been provided to organizations such as the Santa Cruz Flying Club, eight chapters of the EAA, several units of the West Valley Flying Club, including flight school instructors, Watsonville Pilots Association, Petaluma Area Pilots Association and the Ninety-Nines.
- Display Booths at Air Shows - Pacific Coast Dream Machines (Half Moon Bay, CA), Watsonville Fly-In, Wings over Wine Country (Santa Rosa, CA; 2007, 2008), California International Air show (Salinas, CA), Golden West Regional EAA Fly-In (Marysville, CA)

- Pilot Posters - 150 disseminated at flight schools, airports, pilot associations, private businesses, and military units throughout Central California. These posters include tips for avoiding seabirds, and include a summary of the overflight regulations.
- Website – [The Seabird Protection Network](#) conducts proactive outreach to pilots. The Network web page is hosted by the Gulf of the Farallones National Marine Sanctuary, and includes information on regulations that pertain to low overflights within all California sanctuary waters. In addition, each sanctuary website includes information and maps about its low overflight prohibition zones.
- NOAA enforcement personnel have issued verbal and written warnings to approximately 100 pilots since 2003 for overflight violations.